

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

-----X
TAMIKO GARRIS-RIVERS,

Index No. 13-cv-9034 (GBD)
(RLE)

ECF CASE

PLAINTIFF,

-against-

JOINT PRETRIAL ORDER

THE LONG ISLAND RAIL ROAD, THE
METROPOLITAN TRANSPORTATION AUTHORITY,
ELOISE BRODERICK, GREG BUEHLER, CHRIS
MCDERMOTT, JOUAN OLIVARES, ROBERT RAU,
MATTHEW REILLY, MICHAEL HAGGERTY,
BENJAMIN GARDNER,
JOHN MANCINI,

DEFENDANTS.
-----X

I. The full caption of the action.

1. Please see above.

II. The names, addresses (including firm names), and telephone and fax numbers of trial counsel.

Plaintiff's Counsel	Defendants' Counsel
David Allen Thompson Stecklow & Thompson 217 Centre Street, 6th fl. New York, NY 10013 Phone: (212) 566-8000 Fax: (212) 566-4952 Email: dave@sctlaw.nyc	Andrew Kenneth Preston Bee Ready Fishbein Hatter & Donovan, LLP 170 Old Country Road Suite 200 Mineola, NY 11501 Phone: (516) 746-5599 Fax: (516) 746-1045 Email: apreston@beereadylaw.com
Wylie M. Stecklow Stecklow & Thompson 217 Centre Street, 6th fl. New York, NY 10013 Phone: (212) 566-8000 Fax: (212) 566-4952 Email: wylie@sctlaw.nyc	Michael Paul Siravo Bee Ready Fishbein Hatter & Donovan, LLP 170 Old Country Road Mineola, NY 11501 Phone: (516) 924-3969 Fax: (516) 746-1045 Email: msiravo@beereadylaw.com

III. A brief statement by plaintiff as to the basis of subject matter jurisdiction, and a brief statement by each other party as to the presence or absence of subject matter jurisdiction.

A. Plaintiff's statement:

1. This court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 because the claims arise under the Constitution and 42 U.S.C. § 1983 of the United States.

B. Defendant's statement

1. This court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 because the claims arise under the Constitution and 42 U.S.C. § 1983 of the United States.

IV. A brief summary by each party of the claims and defenses that party has asserted which remain to be tried, without recital of evidentiary matter but including citations to all statutes relied upon. Such summaries shall also identify all claims and defenses previously asserted which are not to be tried.

A. Plaintiff's statement:

1. The plaintiff asserts claims against the defendants under 42 U.S.C. § 1983 for violation of the plaintiff's right to be free from unlawful search and seizure under the 4th Amendment to the Constitution.

2. The plaintiff seeks attorneys fees against the defendants pursuant to 42 U.S.C 1981.

3. The plaintiff asserts claims against the defendants under the common law of the State of New York for false arrest and false imprisonment, both directly and through *respondeat superior*.

B. Defendants' statement

1. Probable cause for Plaintiff's arrest existed.

2. Qualified Immunity immunizes all individually named defendants.

V. A statement by each party as to whether the case is to be tried with a jury, and the number of trial days needed

A. Plaintiff's statement:

1. The case is to be tried to a jury. Four and a half days should be set aside for trial.

B. Defendant's statement:

1. The case is to be tried to a jury. Four and a half days should be set aside for trial.

VI. A statement as to whether all parties have consented to trial of the case by a magistrate judge (without identifying which parties have or have not so consented)

1. All parties have not consented to trial of the case by a magistrate judge.

VII. Any stipulations or statements of fact or law which have been agreed upon by all parties.

1. Please see annexed list.

VIII. A statement by each party as to the witnesses whose testimony is to be offered in its case-in-chief, indicating whether such witnesses will testify in person or by deposition.

A. Plaintiff's statement:

1. Tamiko Garris-Rivers (in person)
2. John Rivers (in person)
3. Christine Carville, LCSW (in person)
4. Roslyn Block LCSW (in person)
5. Jodi Sherpirro (in person)
6. Defendant Benjamin Gardner (in person)
7. Defendant Jonathan Mancini (in person)
8. Defendant Matthew Reilly (in person)
9. Defendant Robert Rau (in person)

B. Defendant's statement:

1. Tamiko Garris-Rivers
2. Benjamin Gardner(in person)
3. Jonathan Mancini(in person)
4. Matthew Reilly(in person)
5. Robert Rau(in person)
6. Jouan Olivares(in person)
7. Elouise Broderick(in person)
8. Chris McDermott(in person)
9. Michael Haggerty(in person)

IX. A designation by each party of deposition testimony to be offered in its case-in-chief, with any cross-designations and objections by any other party

a. Plaintiff

1. Transcript of GML 50-H Examination of Plaintiff (“Pl. 50-H Tr.”) 8:18-9:10; 10:4-13:21; 15:5-19, 17:2-9; 22:2-3; 31:13-17; 41:15-21, 43:8-19; 44:13-19; 46:2-13; 50:21 – 52:13; 58:14-23; 59:1-71:25.
2. Transcript of the 10/3/2014 Deposition of Plaintiff (“Pl. Dep. Tr.”) 11:14-14:3; 34:6-17; 41:15-42:7; 43:9-15; 44:16-21; 56:8-14; 58:4-12; 60:5-25; 62:7 – 63:10; 69:4-10; 70:18 – 78:3; 87:12 - 89:18.
3. Transcript of 10/27/2014 Deposition of Officer Robert Rau (“Rau Tr.”) 6:20-9:6; 9:17-20; 10:13-11:16; 11:24-19:5; 19:14-20:10; 20:24-21:23; 22:16-24; 25:21-25; 29:9 - 30:2; 30:18-31:22; 32:17-34:21; 36:13-38:8; 39:22 – 50:11; 54:18-56:2; 57:18-60:3; 60:20-61:18; 61:23-62:6; 64:16-65:13; 66:22-68:16;
4. Transcript of 10/24/2014 Deposition of Jonathan Mancini (“Mancini Tr.”) 6:9-20; 7:7-8:10; 11:8-13:19; 17:17-18:3; 23:3-14; 24:20-25:3; 25:18-22; 26:3-13; 28:2-35:17; 37:2-41:3; 42:12-43:18; 46:2-15; 48:2-8; 51:5-62:11; 74:14-76:4; 76:19-25; 78:11-22; 79:12-80:17.

5. Transcript of 10/27/2014 Deposition of Officer John Reilly ("Reilly Tr.") 10:12-18; 10:25-11:5; 13:6-24; 14:6-13; 14:20 – 19:6; 20:2-11; 20:25-21:23; 22:3-16; 22:23-23:12; 23:20-24:16; 24:24-26:18; 27:11-28:25; 29:18-30:25; 32:7-34:20; 35:4-9; 35:17-36:23;

b. Defendant

1. Plaintiff's GML 50-H Examination of September 19, 2013
2. Deposition of Plaintiff of October 3, 2014
3. Deposition of Jonathan Mancini
4. Deposition of Robert Rau
5. Deposition of Matthew Reilly

X. A list by each party of exhibits to be offered in its case-in-chief, with one asterisk indicating exhibits to which no party objects on grounds of authenticity, and two asterisks indicating exhibits to which no party objects on any ground

A. Plaintiff's statement

1. First Amended Complaint.
2. Notice of claim (to MTA).
3. Notice of claim (to LIRR).
4. Tamiko Garris-Rivers LIRR spousal pass. (On Docket as Document 75-1).
5. Tamiko Garris-Rivers prisoner movement sheet. (Defendants 4-5).
6. Certificate of disposition. (GARRIS-RIVERS – 000001).
7. 3/25/14 Statement of John Mancini (Pl. Dep. Ex. 1).
8. 5/12/13 Memorandum by P.O. Matthew Reilly, (Pl. Dep. Ex. 2).
9. Memo book of P.O. Reilly. (Pl. Dep. Ex. 3).
10. 5/6/2013 MTA PD Incident Report (Pl. Dep. Ex. 4).
11. 5/12/2013 memorandum by P.O. Rau (Pl. Dep. Ex. 5).
12. Memo book of P.O. Rau. (Pl. Dep. Ex. 6).
13. Prisoner custody sheet (On docket as 71-18).

14. 6/26/13 Statement of Benjamin Gardiner. (On docket as 71-19).
15. 3/25/14 Statement of Jonathan Mancini.
16. Omniform system – Arrests (On docket as 71-20).
17. Psychological evaluation of Christine Carville (On docket as 71-22).
18. Medical records from office of Jodi Sherpirro. (GARRIS-RIVERS – 000094 –

120)

19. Patient notes from office of Roslyn Block.
20. Defendants' 56.1 statement.

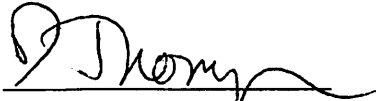
B. Defendants' statement

1. Notice of claim (On docket as 67-1).
2. Tamiko Garris-Rivers' LIRR spousal pass.
3. Plaintiff's May 10, 2013 letter (On docket as 67-2)
4. LIRR Spousal Pass Policy (On docket as 67-6)
5. Conductors notices (On docket as 67-18 through 67-30)
6. Photo of rear side of Plaintiff's spouse pass (On docket as 67-7)
7. Certificate of disposition. (GARRIS-RIVERS – 000001).
8. 3/25/14 Statement of Jonathan Mancini (Pl. Dep. Ex. 1).
9. 5/12/13 Memorandum by P.O. Matthew Reilly, (Pl. Dep. Ex. 2).
10. Memo book of P.O. Reilly. (Pl. Dep. Ex. 3).
11. 5/6/2013 MTA PD Incident Report (Pl. Dep. Ex. 4).
12. 5/12/2013 memorandum by P.O. Rau (Pl. Dep. Ex. 5).
13. Memo book of P.O. Rau. (Pl. Dep. Ex. 6).
14. 6/26/13 Statement of Benjamin Gardiner. (On docket as 71-19).
15. 3/25/14 Statement of Jonathan Mancini.

DATED: New York, New York

March 2, 2016

Respectfully submitted,

A handwritten signature in black ink, appearing to read "D. Thompson", with a long horizontal flourish extending to the right.

David A. Thompson
STECKLOW & THOMPSON
ATTORNEYS FOR PLAINTIFF
217 Centre Street – 6th Floor
New York, New York 10013
Phone: [212] 566-8000
Fax: [212] 202-4952
Dave@SCTLaw.nyc

Andrew K. Preston
Bee, Ready, Fishbein, Hatter, & Donovan, LLP.
Attorneys for Defendants
170 Old Country Road, Suite 200
Mineola, NY 11501
Phone: (516) 746-5599 Ext: 273